

### PART B – CAPITAL IMPROVEMENT CONSTRUCTION PROJECTS SUBJECT TO SBAC PROCEDURES

#### CHAPTER 3 – PROFESSIONAL DESIGN SERVICES (LARGE PROJECTS) SELECTION AND FEES

##### 1.0 General Information

- 1.1 This chapter is applicable to architectural and engineering construction projects whose total project costs exceed the statutory limit of \$1,000,000. ([K.S.A. 75-1253](#))
  - 1.1.1 If there is a project with a budget under this limit, please reference Part B – Chapter 4.
  - 1.1.2 If there is a project with a budget under this limit, but with a scope of work that is unique, or if the Owner's on-call firms are unable to complete the work, the Owner may request that the Project Architect/Engineer be hired using the process for larger projects.
- 1.2 When the legislature approves funding for a proposed project, the process for nominating firms for interviews is initiated by the Owner's request to OFPM to place an advertisement in the *Kansas Register*.

##### 2.0 OFPM - Construction & Compliance Section

- 2.1 Each Project Architect/Engineer in fulfilling their contractual obligations to a state agency shall coordinate with an architect or engineer from OFPM Construction and Compliance section.

##### 3.0 Negotiating Committee Responsibilities

- 3.1 A Negotiating Committee is established to interview the nominated architectural or engineering firms, and to select and negotiate fees with the chosen firm. Each Negotiating Committee shall consist of the following members ([K.S.A. 75-1251](#)):
  - 3.1.1 The head of the state agency for which the proposed project is planned or of the state agency that controls and supervises the operation and management of the institution for which the proposed project is planned, if such is the case, or a person designated by the head of the agency;
  - 3.1.2 The head of the institution for which the proposed project is planned, or a person designated by the head of the institution. When the proposed project is not planned for an institution, the state agency head shall designate a second person in lieu of the head of an institution; and
  - 3.1.3 The Secretary of Administration, or a person designated by the Secretary, who shall act as chairperson of the committee.
- 3.2 Per [K.S.A. 75-1255](#), the Negotiating Committee will:
  - 3.2.1 Approve the description as submitted or may revise and amend or reject all or any part of such description.
  - 3.2.2 The description in the form approved by the Negotiating Committee shall be used in the negotiations between the committee and qualified firms.
  - 3.2.3 Such description shall be the basis for the project development and the project description shall not be altered without the prior approval of the Negotiating Committee.
- 3.3 After the Negotiating Committee is notified of the State Building Advisory Commission's (SBAC) firm nominations, an interview date is selected by the Negotiating Committee and forwarded to the nominated firms.

- 3.4 Each Negotiating Committee member will have the following:
  - 3.4.1 Each firm's project proposal as delivered to OFPM in response to the project advertisement.
  - 3.4.2 A written description of the scope or program of the project, prepared by the head of the state agency for which the project is proposed.
- 3.5 The Negotiating Committee shall interview each of the firms regarding the anticipated project and select a single firm / design team.

### 4.0 Scheduling the interviews

- 4.1 Nominations (shortlist) are made on the second Wednesday of the month. See [SBAC Meeting Schedule](#) for meeting dates.
- 4.2 OFPM attempts to schedule the interviews at least two weeks from the date of the nominations. This allows the negotiating committee time to review the proposals and the firm's time to prepare for their interviews.
- 4.3 The interview date is coordinated only with the negotiating committee and the availability of a conference room. Firms being interviewed are not consulted when scheduling the interviews.
  - 4.3.1 If a firm has a conflict with their interview time, they should contact the chairman of the negotiating committee to work out a solution.
- 4.4 The firms are interviewed in a random order.
- 4.5 The duration of the interviews noted on the schedule and no firm is given any more time than any of the other firms. There will always be time allocated at the end of the scheduled time for questions by the negotiating committee. Please manage your time accordingly.

### 5.0 Interview Content

- 5.1 Firms nominated for a project will be notified via e-mail by OFPM of the interview date and their individual interview time.
- 5.2 OFPM's intent is for all interviews for a project to occur on the same date. Each firm will be allotted the same amount of time for their presentation.
  - 5.2.1 Hand-outs, if supplied, shall be provided to the 3-person Negotiating Committee. Additional copies for distribution are optional.
  - 5.2.2 Interviews consist of a presentation by the design team followed by a question and answer session from the Negotiating Committee.
  - 5.2.3 Each firm will be given a specific amount of time for their presentation and a specific amount of time for questions by the Negotiating Committee.
  - 5.2.4 Set-up and take down time is outside the set interview time. The firm's set-up and take-down should occur as quickly as possible to allow the following firm time for their set-up.
  - 5.2.5 If firms are using electronic media for their presentation, they should bring the required equipment, regardless of the equipment available in the room.

- 5.3 The Owner may invite other agency personnel to attend the interviews. The additional personnel do not have a vote in selection but may be allowed to ask questions and comment on their impressions of the interviews.
- 5.4 Firms are not required to use any particular presentation method but should adapt their interview to the project scope.
- 5.5 In preparing for interviews the Negotiating Committee suggests the firms consider the following:
  - 5.5.1 Call and discuss the project with the agency contact person identified in the advertisement;
  - 5.5.2 Visit the site;
  - 5.5.3 Bring to the interview the staff members that will be working directly with the agency on the project and allow them to speak about the project and their experience;
  - 5.5.4 Bring consultants to the interview and allow them to speak about the project and their experience;
  - 5.5.5 Include in your presentation, projects that are similar in scope and content to the project for which the interviews are being conducted.
  - 5.5.6 If your staff assigned to the project changes between the proposal and the interview, please bring resumes for the added or changed staff;
  - 5.5.7 Consider that the agency you are presenting to knows the work you have completed for them. Your presentation should include work you have completed for other clients.
- 6.0 Selection of the Design Team
  - 6.1 Once the interviews are concluded, the negotiating committee meets to discuss the selection.
  - 6.2 Each Negotiating Committee member evaluates the interviews in their own way.
  - 6.3 Evaluation criteria may include but is not limited to any or all of the following: Quality of the presentation, site visits, relevant experience, understanding of project scope, design and technical ability, costs, problem solving, scheduling and responsiveness and the Owner's previous experience with the firm.
  - 6.4 If possible, the Negotiating Committee discussion and selection will be the same day as the interviews.
  - 6.5 The selected firm will be notified by telephone and a follow up e-mail identifying the next step in the process. Firms not selected will be notified by OFPM via e-mail of the Negotiating Committee's selection.
  - 6.6 The SBAC will be notified of the selected firm.
  - 6.7 The selected firm will also be announced at <http://admin.ks.gov/offices/ofpm/dcc/sbac-nom-sel>.

### 7.0 Commencement of Fee Negotiations

7.1 By statute, the Secretary of Administration shall establish and publish guidelines for fees based on the projected cost of a project, the complexity of a project and the type of construction for the project as factors in establishing the rate or amount of such fees. ([K.S.A. 75-1263](#)) The Negotiating Committee will evaluate and negotiate fees based on these guidelines.

7.1.1 Reference Architect/Engineer Fee guidelines at the end of this chapter.

7.2 Prior to fee negotiations, the selected firm will be provided the following:

7.2.1 The program or written description of the scope of the project. This is the basis for project development.

7.2.2 Form 103 – A/E Services Fee Negotiating Checklist which identifies basic and additional services requested for the project. The complexity factor and type of construction will be identified on this form.

7.2.3 Construction budget to be used for negotiating the fee.

7.2.4 Additional information pertinent to the project.

7.2.5 A completed Form 935 – Project Number / Data Request including the assigned project number.

7.2.6 A deadline for submission of their initial fee proposal.

### 8.0 Fee Negotiation Procedures

8.1 Fee proposal shall include:

8.1.1 Amount for basic services. Reimbursable expenses are included in the basic fees and shall not be identified as a separate amount.

8.1.2 Each additional service is to be identified separately and shall include a construction amount, if applicable along with the proposed fee amount. The construction budget for each additional service shall be subtracted from the overall construction budget.

8.1.3 Tasks for basic services and each additional service will be identified.

8.1.4 Verification of liability insurance per Form 103 – A/E Services Fee Negotiating Checklist.

8.2 Contracts shall be negotiated with the selected firm for the type of professional services required at a fair and reasonable rate of compensation in accordance with ([K.S.A. 75-1257](#))

8.3 The initial fee proposal will be provided by the Project Architect/Engineer to the chairman Negotiating Committee as directed.

8.4 The Negotiating Committee will evaluate the firms' proposal and schedule a time to negotiate the fee.

8.4.1 Negotiations will be a scheduled in-person meeting or may be via a conference call at the Negotiating Committees discretion.

8.4.2 If an in-person meeting is held, it is the intention of the negotiating committee to make a counter offer to the firm at that time after a question and answer session with the firm and discussions amongst the negotiating committee.

- 8.5 Should the Negotiating Committee be unable to negotiate a contract with the firm considered to be the most qualified within the fee limits established, the committee shall then undertake negotiations with the second most qualified firm to negotiate a contract, and so forth with the third, fourth, and fifth firms, if necessary. Should the Negotiating Committee be unable to negotiate a satisfactory contract with any of the selected firms, the committee shall re-evaluate the services and fee requirements and reopen negotiations with any of the nominated firms. ([K.S.A. 75-1257](#))
- 8.6 Should the Negotiating Committee still be unable to enter into a contract with any of the nominated firms, it shall request the SBAC provide another list of nominees.
- 8.7 If the Project Architect/Engineer identifies a valid need to change consultants, the firm shall notify the Negotiating Committee in writing for their approval/disapproval.

### 9.0 Contracts

- 9.1 Contracts are written by the Department of Administration and use a standard contract developed by the department, with input from the Owner.
- 9.2 Each contract for professional services negotiated shall be between the Secretary of Administration or the Owner and the firm selected. ([K.S.A. 75-1258](#))
- 9.3 Each contract is written as a lump sum not-to-exceed amount and will only be changed by contract addendum when negotiated between the firm and the Negotiating Committee.
- 9.4 Each firm shall be responsible for all negligent acts, errors or omissions in the performance of the contract and will be required to have professional liability insurance as determined by the fee negotiations. ([K.S.A. 75-1258](#))
- 9.5 Contracts are routed for signatures by e-mail from Department of Administration Legal office. Once a contract is fully signed, it will be forwarded to the Project Architect/Engineer, the agency and OFPM by e-mail.

### 10.0 Contract Addenda

- 10.1 Whenever there is a change in scope or request for additional services the Project Architect or Engineer may request an additional fee.
  - 10.1.1 The Negotiating Committee must approve the change in scope prior to submittal of the additional fee request. ([K.S.A. 75-1255](#))
- 10.2 When additional compensation is requested by the Project Architect/Engineer, the request will be forwarded to the Negotiating Committee Chair. The chair will forward to the negotiating members for their action. Additional services include but are not limited to:
  - 10.2.1 Additional services from the Form 103 A/E Services – Fee Checklist.
  - 10.2.2 Increase in scope of work.
  - 10.2.3 Additional inspections as detailed in Part B – Chapter 6.
- 10.3 The negotiating of a contract addendum fee is the same as for the original. (See Section 6.0 above)

- 10.4 After successful negotiations, a contract addendum will be written and circulated for signature by e-mail in the same manner as the original contract. (See Section 6.0 above)
- 10.5 The Project Architect/Engineer shall proceed with additional services only after the signed contract amendment or written authorization from the chair of the Negotiating Committee is received.
- 11.0 Payment for Architectural / Engineering Services
  - 11.1 Firms will be paid in proportion to the percentage of work completed within each phase of services described below. Project Architect/Engineer may fully invoice for each phase only after approval is given for that phase.
  - 11.2 Fee breakdown shall be as follows:
    - 11.2.1 **Concept and Schematic Design** - 15% of the total fee. If these two phases are separated, then a fee of 7½% is applicable to the concept development phase and 7½% is applicable to the schematic phase.
    - 11.2.2 **Design Development** - 20% of the total fee
    - 11.2.3 **Construction Documents** – 40% of the total fee.
    - 11.2.4 **Bidding** – 2½% of the total fee. May only be invoiced after a successful bid.
    - 11.2.5 **Construction Administration** – 20% of the total fee. May be invoiced based upon the percentage of completion approved on the construction Contractor's monthly pay applications.
    - 11.2.6 **Closeout** – 2½% of the total fee. May only be invoiced after receipt and approval of the Record Documents.
  - 11.3 The Negotiating Committee may approve alternative fee breakdowns for the construction document phases.
  - 11.4 When requesting payment, the Project Architect/Engineer should submit an invoice to the Owner, except as noted in Section 9.4.1. The invoice shall be broken down based upon the project phases listed above. A Sample A/E Invoice is available at <http://admin.ks.gov/offices/ofpm/dcc/f-and-d>.
    - 11.4.1 Project Architect/Engineer is to submit invoices to OFPM for projects with agencies that do not have a staff architect/engineer or when OFPM is providing full services for an agency. OFPM and the agency will notify the firm if this occurs.
    - 11.4.2 Each amendment shall be a separate line item on the Project Architect/Engineer invoice.
    - 11.4.3 Final invoice should be submitted to Owner and a copy to OFPM.
  - 11.5 The invoice should include all project information on the invoice, including the OFPM project number, full title of the project, the agency name and the agency project number.
  - 11.6 When the firm's final invoice is submitted to OFPM, the OFPM architect/engineer will confirm that the Contractor's final paperwork has been processed and the firm's record documents are received and approved.

### 12.0 Termination of Architectural / Engineering Services

- 12.1 In the event of termination of a project for any reason, including lack of funding for the project, the State of Kansas will give the Project Architect/Engineer thirty (30) day notice.
- 12.2 An appropriate fee for services rendered will be negotiated between the Project Architect/Engineer and the Negotiating Committee.
- 12.3 One (1) copy of a flash drive with copies of all documents completed at the date of termination shall be distributed to the both the Owner and OFPM, unless otherwise directed by OFPM.

### 13.0 Architect/Engineer Fee Guidelines

- 13.1 The Secretary of Administration shall establish and publish guidelines for fees based on the projected cost of a project (construction budget), the complexity factor of a project and the type of construction for the project as factors in establishing the rate or amount of such fees. ([K.S.A. 75-1263](#)) The following information and charts are the guidelines established for fee negotiating for architectural, engineering and combined projects.
- 13.2 The fees indicated in the fee guideline charts below are for basic services. Fees for additional services shall be negotiated separately from basic services fees. Form 103 – A/E Services Fee Negotiating Checklist indicates the basic and additional services the Owner requires.
  - 13.2.1 An 'X' in the left-hand column of the form indicates a service is required by the Owner.
- 13.3 The complexity factor and the type of construction are determined by the agency and OFPM. If there are concerns by the firms about these designations, please share your thoughts in your proposal letter. The negotiating committee will discuss these changes and notify the firm of their decision.
- 13.4 The cost multiplier for basic services is now calculated by interpolation vs a set range.
  - 13.4.1 The formula for this interpolation is:  $d = d1 + ((g - g1) / (g2 - g1)) * (d2 - d1)$ , where:
    - $d$  = fee percentage to solve for;  $d1$  = fee % noted by the \$1,000,000 budget for the corresponding complexity factor;  $d2$  = the fee % noted by the \$60,000,000 budget for the corresponding complexity factor
    - $g$  = construction budget;  $g1$  = \$1,000,000;  $g2$  = \$60,000,000
  - 13.4.2 Reference Form 104 A/E Fee Interpolation for calculating the fee % for the construction budget of the project.
- 13.5 Definitions on the type of construction are in Part A – Chapter 1 Glossary.
  - 13.5.1 Complexity factor definitions are in the first row of the chart just below the category titles in the table at the end of this chapter. OFPM and the Owner work together to establish the complexity factor. The assigned factor may be found on the completed Form 935 – OFPM Project Number / Data Request for the specific project.
  - 13.5.2 Projects with a construction budget between the listed cost values shall have fee percentage values interpolated within the corresponding fee ranges. The resultant fee percentage will be applied to the entire budget amount

**13.6 Fee Guidelines Charts Based Upon Construction Type****NEW CONSTRUCTION (Type of Construction)**

Construction Budget	COMPLEXITY				
	Utilitarian	Conventional	Moderately Complex	Comparatively Complex	Complex
\$1,000,000	7.50%	8.00%	8.75%	9.50%	10.25%
\$60,000,000	5.00%	5.75%	6.50%	7.25%	8.00%

\*Fee percentages on projects over \$60,000,000 will be evaluated on a case-by-case basis.

**RENOVATIONS (Type of Construction)**

Construction Budget	COMPLEXITY				
	Utilitarian	Conventional	Moderately Complex	Comparatively Complex	Complex
\$1,000,000	9.50%	10.25%	11.00%	11.75%	12.50%
\$60,000,000	7.00%	7.75%	8.50%	9.25%	10.00%

\*Fee percentages on projects over \$60,000,000 will be evaluated on a case-by-case basis.

**COMBINED CONSTRUCTION (Type of Construction)**

Construction Budget	COMPLEXITY				
	Utilitarian	Conventional	Moderately Complex	Comparatively Complex	Complex
\$1,000,000	8.50%	9.25%	10.00%	10.75%	11.50%
\$60,000,000	6.00%	6.75%	7.50%	8.25%	9.00%

\*Fee percentages on projects over \$60,000,000 will be evaluated on a case-by-case basis.

Complexity Factor Chart on Next Page
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## 14.0 Complexity Factor Chart

COMPLEXITY FACTOR FOR ASSIGNED BUILDING TYPE				
<b>Utilitarian</b> (Considerably Less Than Ave.)  Projects of simple, utilitarian character with a high degree of repetition.	<b>Conventional</b> (Less Than Average)  Projects of simple character, design, detail, and/or with moderate repetition.	<b>Moderately Complex</b> (Average)  Projects of conventional character, design and detail, with moderate repetition.	<b>Comparatively Complex</b> (More Than Average)  Projects of specialized character, design, containing large amounts of complex scientific mechanical and electrical equipment.	<b>Complex</b> (Considerably More Than Ave.)  Projects of detail character, elaborate planning and execution and devoid of repetition.
<ul style="list-style-type: none"> <li>• Agricultural</li> <li>• Athletic Fields</li> <li>• Boat Ramps</li> <li>• Dam (Earthen) Construction</li> <li>• Dam (Earthen) Renovation</li> <li>• Exterior Work</li> <li>• Floating Docks</li> <li>• Hangars</li> <li>• Historical Monuments</li> <li>• Industrial Buildings</li> <li>• Park Shelters</li> <li>• Parking Lots</li> <li>• Perimeter Security Towers</li> <li>• Pre-engineered Structures</li> <li>• Prototype Facilities (replication of previously designed facilities)</li> <li>• Roofing</li> <li>• Shooting Range, Outdoor</li> <li>• Site Adaptations of Existing Designs</li> <li>• Site Utilities</li> <li>• Site Work: Water, Sewers, Streets, Fences, Walks, Park Trails, Landscaping, Signage, Site Lighting</li> <li>• Storage Facilities</li> <li>• Utility Extensions</li> <li>• Warehouses</li> </ul>	<ul style="list-style-type: none"> <li>• Apartments</li> <li>• Armories</li> <li>• Bakeries</li> <li>• Bowling Alleys</li> <li>• Detention / Correctional Facilities – Minimum</li> <li>• Student Housing / Residence Halls</li> <li>• Fish Hatcheries</li> <li>• Grandstands</li> <li>• Greenhouses</li> <li>• Historical Facilities requiring only repairs</li> <li>• Laundry Facilities</li> <li>• Lagoons</li> <li>• Marinas</li> <li>• Offices Buildings without partitions</li> <li>• Parking Structures</li> <li>• Printing Plants</li> <li>• Residences</li> <li>• Restroom &amp; Shower Buildings</li> <li>• Shop &amp; Maintenance Facilities</li> </ul>	<ul style="list-style-type: none"> <li>• Archive Buildings</li> <li>• Auditoriums</li> <li>• Cellhouses</li> <li>• Central Utility Plants</li> <li>• Chapels</li> <li>• Child Care</li> <li>• Classrooms – General</li> <li>• Day Care Facilities</li> <li>• Detention / Correctional Facilities – Medium</li> <li>• Dietary Facilities</li> <li>• Kitchens / Cafeterias</li> <li>• Fire &amp; Police Stations</li> <li>• Heating Plants</li> <li>• High / Medium Voltage Electrical Service / Distribution</li> <li>• Laboratory non-Science</li> <li>• Libraries</li> <li>• Medical Office Facilities &amp; Clinics</li> <li>• Mental institutions – Non- secure</li> <li>• Nursing Homes</li> <li>• Offices</li> <li>• Power Plant</li> <li>• Recreation Facilities</li> <li>• Schools: Sight / Hearing / Physically Impaired</li> <li>• Stadium/Arena/Fieldhouse</li> <li>• Student Union / Center</li> <li>• Student Housing / Residence Halls with Dining Centers</li> <li>• Swimming Pool Natatoriums</li> <li>• Visitors / Interpretive Centers</li> </ul>	<ul style="list-style-type: none"> <li>• Broadcast Studios</li> <li>• Classrooms Specialized</li> <li>• Computer Centers</li> <li>• Control Centers</li> <li>• Detention / Correctional Facilities – Maximum</li> <li>• Historical Facilities requiring complete restoration</li> <li>• Laboratory – Teaching (Wet)</li> <li>• Medical Clinical Mental Institutions Secure</li> <li>• Museums</li> <li>• Observatories</li> <li>• Theaters</li> <li>• Veterinary Hospitals</li> <li>• Labs, non-science</li> </ul>	<ul style="list-style-type: none"> <li>• Hospitals</li> <li>• Laboratory-BioSafety</li> <li>• Laboratory Research (Wet)</li> <li>• Medical Hospital Science &amp; Medical Research Buildings</li> </ul>

END OF CHAPTER

### SBAC INTERVIEW, SELECTION AND FEE NEGOTIATION

